

witness under this subdivision has violated paragraph (2), or that such action is necessary to ensure that the activities of the grand jury are not unduly delayed or impeded, the court may—

“(i) remove the counsel and either appoint new counsel or order the witness to obtain new counsel; and

“(ii) with respect to a violation of paragraph (2)(C), order separate representation of the witnesses at issue, giving appropriate weight to the right of each witness to counsel of his or her own choosing.

“(B) NO EFFECT ON OTHER SANCTIONS.—Nothing in this paragraph shall be construed to affect the contempt powers of the court or the power of the court to impose other appropriate sanctions.

“(4) NOTICE.—Upon service of any subpoena requiring any witness to testify or produce information at any proceeding before a grand jury impaneled before a district court, the witness shall be given adequate and reasonable notice of the right to the presence of counsel in the grand jury room, as provided in this subdivision.”.

ADDITIONAL COSPONSORS

S. 850

At the request of Mr. AKAKA, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 850, a bill to amend the Packers and Stockyards Act, 1921, to make it unlawful for any stockyard owner, market agency, or dealer to transfer or market nonambulatory livestock, and for other purposes.

S. 1069

At the request of Mr. MURKOWSKI, the names of the Senator from Iowa (Mr. GRASSLEY) and the Senator from Ohio (Mr. DEWINE) were added as cosponsors of S. 1069, a bill entitled the “National Discovery Trails Act of 1997.”

S. 1141

At the request of Mr. ROBERTS, his name was added as a cosponsor of S. 1141, a bill to amend the Energy Policy Act of 1992 to take into account newly developed renewable energy-based fuels and to equalize alternative fuel vehicle acquisition incentives to increase the flexibility of controlled fleet owners and operators, and for other purposes.

S. 1180

At the request of Mr. CRAIG, his name was added as a cosponsor of S. 1180, a bill to reauthorize the Endangered Species Act.

S. 1220

At the request of Mr. DODD, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 1220, a bill to provide a process for declassifying on an expedited basis certain documents relating to human rights abuses in Guatemala and Honduras.

S. 1264

At the request of Mr. HARKIN, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 1264, a bill to amend the Federal Meat Inspection Act and the Poultry Products Inspection Act to provide for improved public health and food safety through enhanced enforcement.

S. 1286

At the request of Mr. JEFFORDS, the names of the Senator from California (Mrs. BOXER) and the Senator from Massachusetts (Mr. KENNEDY) were added as cosponsors of S. 1286, a bill to amend the Internal Revenue Code of 1986 to exclude from gross income certain amounts received as scholarships by an individual under the National Health Corps Scholarship Program.

S. 1348

At the request of Mr. LIEBERMAN, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 1348, a bill to provide for innovative strategies for achieving superior environmental performance, and for other purposes.

S. 1360

At the request of Mr. ABRAHAM, the name of the Senator from Ohio (Mr. GLENN) was added as a cosponsor of S. 1360, a bill to amend the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 to clarify and improve the requirements for the development of an automated entry-exit control system, to enhance land border control and enforcement, and for other purposes.

S. 1391

At the request of Mr. DODD, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 1391, a bill to authorize the President to permit the sale and export of food, medicines, and medical equipment to Cuba.

S. 1464

At the request of Mr. HATCH, the name of the Senator from Alabama (Mr. SESSIONS) was added as a cosponsor of S. 1464, a bill to amend the Internal Revenue Code of 1986 to permanently extend the research credit, and for other purposes.

S. 1677

At the request of Mr. CHAFEE, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 1677, a bill to reauthorize the North American Wetlands Conservation Act and the Partnerships for Wildlife Act.

S. 1724

At the request of Ms. COLLINS, the name of the Senator from Arizona (Mr. MCCAIN) was added as a cosponsor of S. 1724, a bill to amend the Internal Revenue Code of 1986 to repeal the information reporting requirement relating to the Hope Scholarship and Lifetime Learning Credits imposed on educational institutions and certain other trades and businesses.

S. 1733

At the request of Mr. ROBERTS, his name was added as a cosponsor of S. 1733, a bill to require the Commissioner of Social Security and food stamp State agencies to take certain actions to ensure that food stamp coupons are not issued for deceased individuals.

S. 1737

At the request of Mr. MACK, the name of the Senator from South Carolina

(Mr. HOLLINGS) was added as a cosponsor of S. 1737, a bill to amend the Internal Revenue Code of 1986 to provide a uniform application of the confidentiality privilege to taxpayer communications with federally authorized practitioners.

S. 1879

At the request of Mr. BURNS, the names of the Senator from Oklahoma (Mr. INHOFE), the Senator from Utah (Mr. BENNETT), the Senator from Montana (Mr. BAUCUS), the Senator from Idaho (Mr. KEMPTHORNE), and the Senator from North Carolina (Mr. HELMS) were added as cosponsors of S. 1879, a bill to provide for the permanent extension of income averaging for farmers.

S. 1903

At the request of Mr. THOMAS, the names of the Senator from New York (Mr. D'AMATO) and the Senator from Oklahoma (Mr. INHOFE) were added as cosponsors of S. 1903, a bill to prohibit the return of veterans memorial objects to foreign nations without specific authorization in law.

S. 1924

At the request of Mr. MACK, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 1924, a bill to restore the standards used for determining whether technical workers are not employees as in effect before the Tax Reform Act of 1986.

SENATE CONCURRENT RESOLUTION 88

At the request of Mr. ASHCROFT, the names of the Senator from Colorado (Mr. ALLARD), the Senator from North Dakota (Mr. DORGAN), the Senator from Iowa (Mr. GRASSLEY), the Senator from Utah (Mr. HATCH), the Senator from South Dakota (Mr. JOHNSON), the Senator from Alaska (Mr. MURKOWSKI), and the Senator from Oregon (Mr. WYDEN) were added as cosponsors of Senate Concurrent Resolution 88, a concurrent resolution calling on Japan to establish and maintain an open, competitive market for consumer photographic film and paper and other sectors facing market access barriers in Japan.

SENATE CONCURRENT RESOLUTION 93 EXPRESSING THE SENSE OF CONGRESS WITH RESPECT TO MEDICARE DOCUMENTATION REQUIREMENTS

Mr. TORRICELLI (for himself and Mr. COVERDELL) submitted the following concurrent resolution; which was referred to the Committee on Finance:

S. CON. RES. 93

Whereas adequate documentation is necessary to assure quality and appropriateness of services;

Whereas effective strategies to eliminate waste, fraud, and abuse in the Medicare program should not result in excessive documentation requirements being imposed on physicians that will interfere with patient care;

Whereas if the documentation in the medical record does not meet program requirements, payments for such claims may be denied and an investigation into potential fraud and abuse may result;

Whereas the administrative complexity of the documentation requirements may increase the risk that physicians will make inadvertent coding errors; and

Whereas inadvertent errors or legitimate differences of opinion on coding and documentation of physician services under current law are not grounds for concluding that fraud has occurred: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that the Health Care Financing Administration should—

(1) further postpone its plans to implement the documentation guidelines for evaluation and management services, as currently constituted;

(2) continue consultation with organizations representing physicians on how to reduce the complexity of any such guidelines prior to their use by Medicare or its agents in review of claims submitted to the program;

(3) conduct a pilot study of any such documentation requirements prior to use in audits and other review activities; and

(4) assure that any such documentation guidelines, if applied by Medicare or its agents in review activities, contribute to quality care and do not detract from good patient care by requiring physicians to spend undue time documenting their services—at the expense of spending less time with patients—or lead to sanctions being imposed for unintentional coding and documentation errors.

Mr. TORRICELLI. Mr. President, I rise today on behalf of myself and my colleague from Georgia, Senator COVERDELL, to submit a concurrent resolution expressing the sense of Congress with respect to documentation requirements for physicians who submit claims to Medicare for office visits and other evaluation and management services.

In May of last year, the Health Care Financing Administration (HCFA) released revised Medicare documentation guidelines for evaluation and management (E/M) services. The guidelines were intended to provide physicians and claims reviewers advice about preparing and reviewing documentation for E/M services. They were also expected to improve the quality of medical records and continuity of patient care.

It is clear now, nearly eight months after the guidelines were implemented, that the guidelines' intent has not been fulfilled. Rather than improving the quality of patient care, the new E/M guidelines have caused patient care to suffer.

I have received hundreds of letters from physicians in my state of New Jersey telling me that they spend so much time trying to figure out how to bill Medicare under the new guidelines that they have little time left for their patients. There are 42 choices a physician must consider before selecting the proper E/M code for a given service. These kind of highly complicated and excessive billing guidelines force physicians to spend less time with their patients and more time on their charts. The result is a diversion of the physicians' attention away from patient care and medical decision-making. Even the American Medical Association

(AMA), who helped draft the guidelines, warns that they may impose an undue burden on physicians that may detract from patient care. These concerns have prompted the AMA to commit to make changes in the guidelines that address concerns about their complexity.

The resolution I rise to submit today expresses the sense of Congress that HCFA should postpone its plan to implement the documentation guidelines and continue consultation with physicians organizations on how to reduce the complexity of E/M guidelines. The resolution also expresses the sense of Congress that HCFA should conduct a pilot study of any documentation requirements prior to their implementation to assure that they contribute to, rather than detract from, quality patient care.

It is well settled that adequate documentation is necessary to assure quality and appropriateness of Medicare services. It is also needed to prevent waste, fraud and abuse. However, we in Congress have a responsibility to ensure that strategies to address these issues not result in burdensome requirements that interfere with patient care.

AMENDMENTS SUBMITTED

THE INTERNAL REVENUE SERVICE RESTRUCTURING AND REFORM ACT OF 1998

SPECTER AMENDMENT NO. 2336

(Ordered to lie on the table.)

Mr. SPECTER submitted an amendment intended to be proposed by him to the bill (H.R. 2676) to amend the Internal Revenue Code of 1986 to restructure and reform the Internal Revenue Service, and for other purposes; as follows:

At the end, add the following:

TITLE —FLAT TAX

SEC. 01. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This title may be cited as the "Flat Tax Act of 1998".

(b) TABLE OF CONTENTS.—The table of contents for this title is as follows:

Sec. 01. Short title; table of contents.

Sec. 02. Flat tax on individual taxable earned income and business taxable income.

Sec. 03. Repeal of estate and gift taxes.

Sec. 04. Additional repeals.

Sec. 05. Effective dates.

SEC. 02. FLAT TAX ON INDIVIDUAL TAXABLE EARNED INCOME AND BUSINESS TAXABLE INCOME.

(a) IN GENERAL.—Subchapter A of chapter 1 of subtitle A is amended to read as follows:

"Subchapter A—Determination of Tax Liability

"Part I. Tax on individuals.

"Part II. Tax on business activities.

"PART I—TAX ON INDIVIDUALS

"Sec. 1. Tax imposed.

"Sec. 2. Standard deduction.

"Sec. 3. Deduction for cash charitable contributions.

"Sec. 4. Deduction for home acquisition indebtedness.

"Sec. 5. Definitions and special rules.

"SECTION 1. TAX IMPOSED.

"(a) IMPOSITION OF TAX.—There is hereby imposed on every individual a tax equal to 20 percent of the taxable earned income of such individual.

"(b) TAXABLE EARNED INCOME.—For purposes of this section, the term 'taxable earned income' means the excess (if any) of—

"(1) the earned income received or accrued during the taxable year, over

"(2) the sum of—

"(A) the standard deduction,

"(B) the deduction for cash charitable contributions, and

"(C) the deduction for home acquisition indebtedness,

for such taxable year.

"(c) EARNED INCOME.—For purposes of this section—

"(1) IN GENERAL.—The term 'earned income' means wages, salaries, or professional fees, and other amounts received from sources within the United States as compensation for personal services actually rendered, but does not include that part of compensation derived by the taxpayer for personal services rendered by the taxpayer to a corporation which represents a distribution of earnings or profits rather than a reasonable allowance as compensation for the personal services actually rendered.

"(2) TAXPAYER ENGAGED IN TRADE OR BUSINESS.—In the case of a taxpayer engaged in a trade or business in which both personal services and capital are material income-producing factors, under regulations prescribed by the Secretary, a reasonable allowance as compensation for the personal services rendered by the taxpayer, not in excess of 30 percent of the taxpayer's share of the net profits of such trade or business, shall be considered as earned income.

"SEC. 2. STANDARD DEDUCTION.

"(a) IN GENERAL.—For purposes of this subtitle, the term 'standard deduction' means the sum of—

"(1) the basic standard deduction, plus

"(2) the additional standard deduction.

"(b) BASIC STANDARD DEDUCTION.—For purposes of subsection (a), the basic standard deduction is—

"(1) \$17,500 in the case of—

"(A) a joint return, and

"(B) a surviving spouse (as defined in section 5(a)),

"(2) \$15,000 in the case of a head of household (as defined in section 5(b)), and

"(3) \$10,000 in the case of an individual—

"(A) who is not married and who is not a surviving spouse or head of household, or

"(B) who is a married individual filing a separate return.

"(c) ADDITIONAL STANDARD DEDUCTION.—For purposes of subsection (a), the additional standard deduction is \$5,000 for each dependent (as defined in section 5(d))—

"(1) whose earned income for the calendar year in which the taxable year of the taxpayer begins is less than the basic standard deduction specified in subsection (b)(3), or

"(2) who is a child of the taxpayer and who—

"(A) has not attained the age of 19 at the close of the calendar year in which the taxable year of the taxpayer begins, or

"(B) is a student who has not attained the age of 24 at the close of such calendar year.

"(d) INFLATION ADJUSTMENT.—

"(1) IN GENERAL.—In the case of any taxable year beginning in a calendar year after 1997, each dollar amount contained in subsections (b) and (c) shall be increased by an amount equal to—

"(A) such dollar amount, multiplied by